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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/068,710

02/06/2002

Anees Narsinh

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9204

35114

7590

12/28/2005

ALCATEL INTERNETWORKING, INC.
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EXAMINER

HSU, ALPUS

ART UNIT

PAPER NUMBER

2665

DATE MAILED: 12/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/068,710	Applicant(s) NARSINH ET AL.	
	Examiner Alpus H. Hsu	Art Unit 2665	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-16 and 18-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-16, 18-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 22, 2005 has been entered.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 9, 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over LUIJTEN et al. in US Patent Application 2001/0021174 A1 (of record) in view of KILKKI et al. in U.S. Patent No. 6,041,039 (of record).

Regarding claim 9, LUIJTEN et al. discloses an access controller (19, 40, 60) in a data communication node (10) comprising an input (1) for receiving an inbound packet, a classification engine (40) for classifying the inbound packet, a buffer (19) for storing admitted

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inbound packet, and a disposition engine (60) for receiving classification information and determining whether the inbound packet is to be admitted based on a utilization level of the buffer determined from the classification information, and delivering the inbound packet to a switching controller (25) if the packet is admitted.

LUIJTEN et al. differs from the claim, in that, it does not disclose the admission of inbound packet based on the utilization level of the buffer and the classification information, which is well known in the art and commonly used in communications field for data flow controlling purpose. KILKKI et al., for example, from the same field of endeavor, teaches the admission of inbound packet based on the utilization level of the buffer and the classification information (col. 6, line 35 to col. 7, line 10), which can be easily adopted by one of ordinary skill in the art to implement into the system of LUIJTEN et al. to provide the classified data flow control to further improve the system efficiency.

Regarding claims 12-14, LUIJTEN et al. discloses the access controller admits and discards the inbound packet based on the comparison of the predetermined threshold level or discard probability ([0029], lines 15-28, [0032], lines 3-10).

Regarding claim 15, LUIJTEN et al. discloses a method for packet traffic management in a data communication node including an access controller and a switching controller, comprising: at the access controller: receiving an inbound packet ([0026], lines 1-3), classifying the packet wherein a first set of classification information (grant information GR) is generated ([0026] lines 4-9, [0028], lines 1-3), determining congestion status data from the classification data ([0029], lines 10-20, admitting the packet classified by the access controller into the node based on the first set of classification information ([0027], lines 1-8), delivering the admitted

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packet to the switching controller ([0022], lines 8-15); and at a switching controller, determining whether the admitted packet is to be forwarded to a destination address ([0021], lines 1-9).

LUIJTEN et al. differs from the claim, in that, it does not disclose the admission of inbound packet based on the congestion status data and the classification information, which is well known in the art and commonly used in communications field for data flow controlling purpose. KILKKI et al., for example, from the same field of endeavor, teaches the admission of inbound packet based on the congestion status data and the classification information (col. 6, line 35 to col. 7, line 10), which can be easily adopted by one of ordinary skill in the art to implement into the system of LUIJTEN et al. to provide the classified data flow control to further improve the system efficiency.

5. Claims 10, 11, 16, 18-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over LUIJTEN et al. in US Patent Application 2001/0021174 A1 (of record) in view of KILKKI et al. in U.S. Patent No. 6,041,039 (of record), as applied to claims 9 and 15 above, and further in view of JONES in U.S. Patent No. 6,590,901 (of record).

Regarding claims 10 and 11, the system provided by LUIJTEN et al. in view of KILKKI et al. differs from the claims, in that, the system does not disclose the feature of including a priority associated with the inbound packet in the first set of classification information, and giving different precedence in admitting packets associated with different priorities, which are also well known in the art and commonly applied in communications field for prioritized data flow control purpose.

JONES, from the similar field of endeavor, discloses the feature of including a priority associated with the inbound packet in the first set of classification information, and giving

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different precedence in admitting packets associated with different priorities (col. 9, lines 5-12, col. 10, lines 1-9), which can be easily adopted by one of ordinary skill in the art into the system of LISJTEN et al. in view of KILKKI et al. to provide prioritized data flow control to further improve the system efficiency.

Regarding claims 16 and 18, the method provided by LUIJTEN et al. in view of KILKKI et al. differs from the claims, in that, the method does not disclose a specific access controller being a media access controller and including a priority associated with the inbound packet in the first set of classification information, and giving different precedence in admitting packets associated with different priorities, which are well known in the art and commonly used for data access control purpose. JONES, for example, from the similar field of endeavor, teaches the use of media access controller for data access control and giving different precedence in admitting packets associated with different priorities (col. 9, lines 5-12, col. 10, lines 1-9) as claimed, which can be easily adopted by one of ordinary skill in the art into the method of LUIJTEN et al. in view of KILKKI et al. to provide media access control to further improve the method controllability and to provide prioritized data flow control to further improve the method efficiency.

Regarding claim 19, LUIJTEN et al. discloses further step of storing the admitted inbound packets in a packet buffer (19).

Regarding claims 20-23, LUIJTEN et al. discloses the access controller admits and discards the inbound packet based on the comparison of the predetermined threshold level or discard probability ([0029], lines 15-28, [0032], lines 3-19).

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6. Applicant's arguments filed September 22, 2005 have been fully considered but they are not persuasive.

In the remark, the applicant mainly argued that Luijten reference alone does not teach or suggest the claimed invention. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on **combinations of references**. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Therefore, the rejections of claims 9-16, 18-23 under 35 U.S.C. 103(a) have been sustained.

7. This is a RCE of applicant's earlier Application No. 10/068,710. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

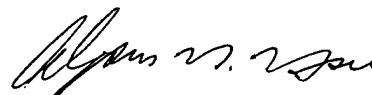
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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alpus H. Hsu whose telephone number is (571)272-3146. The examiner can normally be reached on M-F (5:30-3:00) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D. Vu can be reached on (571)272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AHH



Alpus H. Hsu
Primary Examiner
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